

CM/ECF Frequently Asked Questions

CM/ECF Project Background

1. What is the case management/electronic case files project?

ANSWER: CM/ECF is a joint project of the AO and the federal courts to replace the existing case management systems in the federal courts, with a new case management system based on current technology, new software, and increased functionality requested by the courts and court customers. In addition to providing the courts with updated tools for managing their cases, this new system will enable the courts to maintain electronic case files and offer electronic filing over the Internet.

2. What are the benefits and features of using CM/ECF for courts, attorneys and the public?

ANSWER: There are a number of significant benefits and features for courts, attorneys and the public:

- Attorneys, parties and the general public are able to view case records using the Internet. This includes the ability to view the full text of all filed documents for a nominal fee (subject to any limitations the court might impose).
- Simultaneous access to court files without having to retrieve case records from the courthouse.
- At the court's option, registered attorneys can file and retrieve court documents 24 hours per day, 7 days per week.
- Attorneys filing over the Internet automatically create docket entries.
- Attorneys can receive notices electronically in ECF cases. This eliminates the costs to both the court and attorneys of handling and mailing paper notices. It also greatly speeds delivery and allows easier tracking of case activity.
- Since CM/ECF uses industry standard software, the out of pocket cost of participation for attorneys is typically very low.

3. Will CM/ECF be mandatory at some point in the future?

ANSWER Courts' use of the ECF capabilities is optional. The District Court of Minnesota has not yet established a policy for mandatory filing

4. Will the federal or local rules be modified to include procedures for electronic filing?

ANSWER: The Federal Rules of Procedure currently authorize individual courts to permit electronic filing of documents by local rule. See Fed. R. Civ. P. 5(e); Fed. R. Crim. P. 49(d); Fed. R. App. P. 25(a)(2)(D); Fed. R. Bankr. P. 5005(a)(2), 7005, 8008(a). Most of the prototype courts have issued a rule or general order authorizing electronic filing. The U.S. District Court has a Federal Rules Sub-Committee working jointly with the court in creating administrative orders, general orders and other rules regarding electronic case filing.

5. How will signatures be handled for documents filed electronically?

ANSWER: At present, this is a matter for local court rule or order. Most courts are currently treating the use of an attorney's unique system login and password as a signature. Many courts require that attorneys retain copies of critical paper documents, such as affidavits, containing original signatures of parties for a set period of time.

6. Can the general public view ECF cases and the documents in those cases?

ANSWER: Access to view non-sealed cases and documents in CM/ECF is available to anyone with a PACER login and password. PACER offers convenient electronic access to case file documents, listing of all case parties, reports of case related information, chronologies of events entered in the case record, claim registries, listing of new cases, judgments or case status, and a calendar of events. However, as a result of the policy recently adopted by the Judicial Conference, the public cannot view documents filed in Civil Social Security Appeal cases or Criminal cases.

To defray the costs of PACER and CM/ECF, the Judicial Conference has set a fee of seven cents per page for viewing or printing electronic court data via the Internet, except for calendar information, which is available at no charge. The fee applies to all users, although courts may exempt certain persons, such as indigents or bankruptcy case trustees. Parties entitled to documents as part of the legal process receive a free electronic copy, although they will be charged for replacement copies, whether in paper or electronic form.

7. When a user files a pleading with the court, does the system automatically serve the other parties or does the user have to do something extra to serve the others? And, do the other parties just get notification of a filing or do they get the actual document?

ANSWER: The system is set up so that when a court user or attorney files a document with the court, a notice of electronic filing is generated that includes information about what was filed, the text of the docket entry, the unique document stamp, and a list of case participants that receive email notification of the filing and a list of those that do not. The

notice of electronic filing sent to those listed as receiving email notification contains a hyperlink to the document.

Whether or not the receipt of this notice constitutes "service" depends on the provisions of the local rules of procedure. Each of the prototype courts has a provision on this topic. Most provide that the filer must separately send the notice of electronic filing but need not send the filed documents to other parties registered to accept electronic service. Other parties who are not registered CM/ECF filers must generally be served in the traditional manner, with paper documents.

8. How does CM/ECF handle sealed records? Does it track their content and filing location or merely indicate that a document was placed under seal? Are sealed documents stored in the database? If so, what controls govern who may view them?

ANSWER: CM/ECF currently has control levels for document access that allow the court to specify who can access each document. Documents may be restricted in one of two ways:

- a) by case - access to all documents in a case may be restricted or
- b) by document – access to a particular document in a case may be restricted

Most courts require the motion to seal to be filed electronically and the relevant documents to be filed in paper form. The docket entry, or a "dummy" document linked to the docket entry, indicates the location of a sealed document.

9. What hardware and software will attorneys need to participate in ECF?

ANSWER: Attorneys will need the following hardware and software to electronically file, view, and retrieve documents in the electronic filing system:

- A personal computer running a standard operating system such as Windows or Macintosh.
- An Internet provider using Point to Point Protocol (PPP).
- Netscape versions 4.6 or 4.7 or Internet Explorer version 5.5.
- Software to convert documents from a word processor format to portable document format (PDF).
- A PDF compatible word processor like Macintosh or Windows based versions of WordPerfect and Word
- A scanner to create electronic documents that are not in electronic format.

10. Is ECF browser specific?

ANSWER: CM/ECF is compatible with both Netscape versions 4.6 or 4.7 and Internet Explorer version 5.5. In either case, your browser must be JavaScript-enabled.

11. Is ECF word processor specific?

ANSWER: No, you may use any word processor or other programs that can convert documents to PDF.

12. How do courts accept and process proposed orders?

ANSWER: Many courts prefer to have the ability to edit orders before they are docketed in the case. As a result, courts have developed various procedures for the submission of proposed orders outside of CM/ECF. The District Court of Minnesota has not determined how it will handle proposed orders. Listed below are some options other courts have implemented:

1. The party sends a proposed order in a word processing format directly to chambers or a designated individual on the court's staff via e-mail, or to the clerk's office on a diskette. The judge then edits the proposed order, if necessary, saves it in an "out box" directory for the courtroom deputy or case administrator to convert to a .pdf file and docket.
2. The party is instructed to provide a hard copy of the proposed order along with a diskette containing an electronic copy.
3. The proposed order is filed by e-mail or diskette in .pdf format. A signature image could be inserted into the .pdf file, or if the judge wants to revise the proposed order, the text could be cut and pasted into a new document.

13. Will attorneys be able to access the CM/ECF system after the court's regular business hours to file cases and review documents/docket sheets?

ANSWER: The system can be made available 24 hours a day, 7 days a week. There will be times when the system is unavailable for routine maintenance or due to unexpected technical difficulties.

14. Can any member of the public use CM/ECF to file documents with the Court?

ANSWER: No. Currently, access to CM/ECF for filing is available only to users authorized by the court. Most courts are currently allowing only attorneys to register for filing logins and passwords.

15. How are fees paid?

ANSWER: Currently for District Courts using CM/ECF, the Complaint must be submitted to the Court on disk or paper, along with the \$150 filing fee. The Court posts the Complaint for the attorney and assigns a Judge. In the future there will be capabilities for on-line payment and case assignment.

16. How exactly is a court to handle the following non-electronic filings: documents that are not, or cannot, be rendered into PDF format; pro se or prisoner litigants who do not have access to a computer; counsel that do not have computers?

ANSWER: Documents that can be scanned can be stored in PDF format. Documents that cannot be scanned (due to oversized pages, poor quality or excessive length) can be maintained in a paper file. The corresponding docket entry for such documents would contain a note or hyperlink to a note stating that the document is not available electronically. Pro se litigants can be offered the use of public terminals in the court to complete their filings or the court can accept paper filings and scan them. Prisoner petitions can also be scanned or the court can choose to maintain paper files for such cases. Counsel without access to computers can either fax their documents or submit them to court staff to be scanned.

17. What types of training plans were developed by the courts for external users?

ANSWER The District Court of Minnesota will be offering hands-on training at the courthouses, visit law firms and train on-site for attorneys, provide demonstrations of the system, and make web-based training available.

For further information and updated on CM/ECF in the District of Minnesota, please visit www.mnd.uscourts.gov